

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Swift, Integrity Land Investments, Petitioner-Appellant, v. Dubuque County Board of Review, Respondent-Appellee.	ORDER Docket Nos. 10-79-0092 through 10-79-0097 and corresponding parcel numbers
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On April 26, 2011, the above-captioned appeal came on for hearing before the State of Iowa Property Assessment Appeal Board. The appeal was conducted pursuant to Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant, Swift, Integrity Land Investments, designated Tom Swift, II, as its legal representative. He did not participate in the hearing. The Respondent-Appellee, Dubuque County Board of Review, designated Assistant County Attorney Lyle Galliard as its legal representative. A digital record of the proceedings was made. Both parties submitted evidence in support of their position. The Appeal Board now having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Swift, Integrity Land Investment (Swift), owner of six properties located in Asbury, Iowa, appeals from the Dubuque County Board of Review decision reassessing its property. The classification of the properties was residential for the January 1, 2010, assessment.

The properties are three duplexes. Each half of a duplex is an individual parcel. The properties are newer frame dwellings built between 2008 and 2010. The properties located at 6300 and 6302 Pawnee are assessed at \$141,790 and \$155,630, respectively; the properties at 2258 and 2200 Fawnview are assessed at \$143,070 and \$143,720, respectively; and the properties at 2270 and 2272 Fawnview are assessed at \$143,410 and \$143,690, respectively.

Swift protested to the Board of Review on the grounds that the property was not equitably assessed under Iowa Code section 441.37(1)(a), that the property was assessed for more than authorized by law under section 441.37(1)(b), and that there was an error in the assessment under section 441.37(1)(d). The Board of Review denied the protest stating, "insufficient evidence has been presented to prove the assessment as excessive."

Swift then appealed to this Board reasserting its claims. Swift claims the error in the assessment is "because the property is built on a slab and has a lower market value than a full basement."

Although no one appeared on behalf of Swift at hearing, in the record it provided four equity comparables located in the 8000 block of Old Hickory Road in the City of Dubuque. The comparables are assessed for \$125,490 each. We note the equity comparables are located in Dubuque City, which is its own assessing jurisdiction, not the City of Asbury, which is located in Dubuque County's assessing jurisdiction. Dave Kubik, Dubuque County Assessor, testifying on behalf of the Board of Review, confirmed the equity comparables submitted by Swift are located in the City of Dubuque. Therefore, Swift's four equity comparables cannot be considered for the equity claim.

Kubik also testified that he commissioned two appraisals of the subject properties which were completed by Bradley R. Brissey of Brissey Realty, Dubuque, Iowa.

Brissey appraised the property located at 6302 for the January 1, 2010, assessment date at \$163,000 using market comparables. Brissey valued 2272 Fawnview at \$144,000, using market comparables.

The Board of Review also submitted Exhibits C and D that indicate the Pawnee properties are listed for sale as a pair for \$374,900 or an average of \$187,450 each. The Fawnview properties are listed for sale as a group of four for \$649,500, which is an average of \$162,475 each. These averages

are above the assessed value, although we recognize that properties often sell for less than their listed price.

Swift claimed there was an error in the assessment because the property is built on a slab. We find no error in the listing of the properties related to this claim.

Viewing the record as a whole, we find the preponderance of the evidence failed to support Swift's claims. Furthermore, the best evidence in the record are the appraisals by Brissey that support the assessed values set by the Dubuque County Board of Review.

Conclusions of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determined anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.* 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sales prices of the property or comparable properties in normal transactions are also to be considered in arriving at market value. *Id.*

If sales are not available, “other factors” may be considered in arriving at market value. § 441.21(2).

The assessed value of the property “shall be one hundred percent of its actual value.” § 441.21(1)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shriver*, 257 Iowa 575, 133 N.W.2d 709 (1965). The six criteria include evidence showing

“ (1) that there are several other properties within a reasonable area similar and comparable... (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the (subject) property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination.”

Id. at 579-580. The gist of this test is ratio difference between assessment and market value, even though Iowa now requires assessments to be 100% of market value. § 441.21(1)

Swift offered four properties as equity comparables, however, all four are located in another assessment jurisdiction. In *Maytag v. Partridge*, 210 N.W.2d 584, 595 (Iowa 1973), the Supreme Court determined “[t]he assessed value of property in another district cannot be used for comparative purposes” when challenging an assessment under a claim of inequity. Swift failed to prove its properties are inequitably assessed.

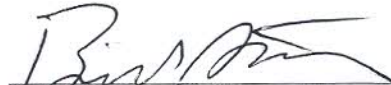
In an appeal that alleges the properties are assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the properties. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Swift offered no evidence in support of a market value claim. The Board of Review provided two appraisals of the subject properties, which reasonably support the assessments.

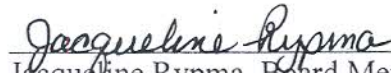
The evidence does not support the claims brought before this Board. The January 1, 2010 assessments are as follows:


Docket No.	Address	Parcel	Assessed Value
10-31-0092	6300 Pawnee	09-24-431-006	\$141,790
10-31-0093	6302 Pawnee	09-24-431-005	\$155,630
10-31-0094	2258 Fawnview	10-19-431-006	\$143,070
10-31-0095	2260 Fawnview	10-19-431-005	\$143,720
10-31-0096	2270 Fawnview	10-19-431-004	\$143,410
10-31-0097	2272 Fawnview	10-19-431-003	\$143,690

THE APPEAL BOARD ORDERS the January 1, 2010 assessments as set by the Board of Review, are affirmed.

Dated this 14 day of June 2011.


Richard Stradley, Presiding Officer


Jacqueline Rypma, Board Member


Karen Oberman, Board Member

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>6-14</u> , 2011	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX <input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier <input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	